

REMARKS

Claims 18, 19, 21-23, 25, 28, 30-32, 35-42 and 44-49 are currently pending. Claims 18, 32 and 60 are independent. Claims 18-29 and 32-43 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Pat. No. 6,581,776 to Zatkoff (hereinafter "Zatkoff"). Claims 30, 31, 44 and 45 stand rejected under 35 U.S.C. § 103 as being unpatentable over Zatkoff in view of U.S. Pat. No. 3,359,929 to Carlson.

Claims 18 and 32 have been amended and claims 60-67 are new. Support for the amended and new claims can be found throughout Applicants' originally filed specification. The term "shipping," consistent with its plain meaning, is defined as transporting commercially, as by ship, train, plane or other vehicle. Support for this amendment can be found, at for example page 7-9. The limitation reciting "two or more of the implements comprising different working ends," can be found at the bottom of page 8 of the originally filed specification. Virtually all other limitations were set forth in Applicants' originally filed claims.

Independent claims 18, 32 and 60, which are the only pending independent claims, are patentably distinguishable from Zatkoff. Briefly, Zatkoff teaches a portable kit for storing cleaning implements comprising telescoping handles. Zatkoff fails to meet each and every limitation recited by Applicants' independent claims. In particular, Zatkoff neither teaches nor suggests "providing a plurality of shipping containers, each shipping container including a lengthwise dimension no greater than about 48.0 inches," as recited by independent claim 18. Nor does Zatkoff teach or suggest a plurality of implements capable a first length within the range of about 40 inches to about 48 inches," as recited by independent claim 32. Finally, nowhere does Zatkoff teach or suggest implements comprising a handle attachment member corresponding to a handle, with the handle attachment member positioned out of alignment with the handle within the shipping container, as recited by independent claim 60.

Applicants also dispute whether Zatkoff teaches (1) placing in a shipping container a plurality of implements including substantially the same overall length or (2) shipping such a shipping container to a destination. Although the Office Action, at page 3, asserts that Zatkoff teaches a shipping container including implements of substantially the same

length, the Action impermissibly relies on Zatkoff's figures. Importantly, "it is well established that patent drawings do not define the precise proportions of the elements and may not be relied upon to show particular sizes if the specification is completely silent on the issue." *Hockerson-Halberstadt, Inc. v. Avia Group Int'l.*, 222 F.3d 951, 956 (Fed. Cir. 2000). As the M.P.E.P. explains, "when the reference does not disclose that the drawings are to scale and is silent as to dimensions, arguments based on measurement of the drawing features are of little value." M.P.E.P. § 2125. Here, Zatkoff does not indicate that the figures are to scale and is completely silent concerning the dimensions of the implements within the housing of the kit. Accordingly, Zatkoff cannot teach the important dimension-based limitations recited by Applicants' independent claims.

Zatkoff also fails to teach or suggest the shipping step recited by Applicants' amended claims 18 and 32. Although Zatkoff, at col. 2, ll 1-3, states "the kit is portable to enable use in a number of locations," portability is not indicative of shipping. At best, this passage suggests that a user may carry the kit from one location to the next. Zatkoff does not even hint that the kit is the same as a shipping container that can be shipped from one destination to another. In fact, it is questionable whether the kit would even be accepted for shipment by a commercial carrier.


Independent claims 18, 32 and 60, therefore, are allowable over Zatkoff. Since all pending dependent claims depend on an allowable base or intervening claim, these dependent claims are also allowable.

CONCLUSION

In view of the foregoing, Applicant respectfully submits that all pending claims are in condition for allowance. Favorable action is earnestly solicited.

Respectfully submitted,

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